IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 20-06-2007

CORAM

THE HONOURABLE MR.JUSTICE S.PALANIVELU

C.M.A.No.255 OF 2002

1.R.Vijayalakshmi
2.R.Karthi @ Haridas (Minor)
3.R.Kalpana (Minor)
(Appellants 2 & 3 are rep.by their mother and natural friend R.Vijayalakshmi/first Appellant)
4.S.Lakshmi
5.K.Somu (deceased) ... Appellants/Petitioners.
[Appellants 2 to 4 are LRs of 5th Appellant K.Somu]

-vs-

1.M.Chandrasekaran
2.United India Insurance Co.Ltd.,
No.38,Anna Salai,
Chennai-600 002. ... Respondents/Respondents.

Appeal against the award and decree, dated 28.04.2000, made in MCOP No.333 of 1995, on the file of Motor Accident Claims Tribunal (Sub-Court), Poonamallee.

For appellants : Mr.A.Shanmugaraj
For Respondents : Mrs.K.Kumudha

J U D G M E N T

Claimants have filed this Civil Miscellaneous Appeal, aggrieved over the award, dated 28.04.2000, made in M.C.O.P.No.333 of 1995, on the file of Motor Accident Claims Tribunal (Sub-Court), Poonamallee, awarding a compensation of Rs.1,80,000/-, as against the claim of Rs.4,00,000/-.

2. There is no dispute about the manner of accident and the liability fixed on the driver, for causing the accident.

3. On 14.07.1994, at about 19.00 hours, while the deceased Ramu was coming on his cycle at Narayanapuram in Velacherry, a lorry, belonging to first respondent and insured with second respondent, came from his backside and dashed against him, causing the fatal accident, as a result of which the said Ramu succumbed to grievous injuries.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

4. The contention of the learned counsel for the claimants/appellants is that the compensation arrived at by the tribunal is on lower side.

5. The tribunal perused the oral evidence available on record and fixed a sum Rs.1,500/- per month and, accordingly, arrived at a sum of Rs.18,000/- towards 'annual loss of income' of the deceased to the claimants' family. The tribunal, applying the multiplier of '10', arrived at a sum of Rs.1,80,000/- towards 'total loss of income'.

6. It is in evidence that the deceased was earning a sum of Rs.700/- per week, by attending to Maistry work. The deceased was aged 38 years at the time of accident.

7. According to II Schedule attached to the amended Motor Vehicles Act,1988, the multiplier to be adopted is '16', since the deceased was aged 38 years.

8. Considering the monthly income of the deceased as Rs.2,700/- and after deducting 1/3 towards 'personal expenses', I feel, the dependency has to be fixed at Rs.1,800/-. Thus, the annual dependency shall come to Rs.21,600/-. By applying the multiplier '16', the compensation available to the claimants under the head 'total loss of income' would be Rs.3,45,600/-. Towards 'loss of consortium', the first claimant/wife of the deceased would be entitled to Rs.5,000/-. Towards 'loss of estate', a sum of Rs.2,500/- and towards 'funeral expenses', a sum of Rs.2,000/- have to be awarded. Thus, the claimants are entitled to a total compensation of Rs.3,55,100/-.

9. Accordingly, the enhanced compensation would be Rs.1,75,100/-. The second respondent is directed to deposit the said enhanced amount along with interest at 7.5% per annum from the date of claim petition, within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the claimants 1,2,3 and 4 are are entitled to Rs.1,00,100/-, Rs.25,000/-, Rs.25,000/- and 25,000/- respectively. Except appellants 2 and 3, who are minors, the other appellants, namely, 1 and 4 are entitled to withdraw their share and the minors' share shall be kept in Fixed Deposit until they attain majority. In other aspects, the award of the tribunal is confirmed.

10. Civil Miscellaneous Appeal is allowed in part. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

WEB COPY
https://hcservices.ecourts.gov.in/hcservices/

dixit

To

1. The Motor Accident Claims Tribunal
(Subordinate Judge), Poonamallee.

2. The Section Officer, VR Section,
High Court, Madras.

+ 1 CC To Mr. A.Shanmugaraj, Advocate SR NO.30442

C.M.A.No.255 of 2002

tej[co]
gp/24.7.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/